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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/934,738	08/22/2001	Ingo Molnar	019322-000340	9016

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EXAMINER	
CHOUDHURY, AZIZUL Q	

ART UNIT	PAPER NUMBER
2145	

DATE MAILED: 11/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/934,738	MOLNAR, INGO	
	Examiner	Art Unit	
	Azizul Choudhury	2145	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *24 August 2006*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-14* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-14* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *22 August 2001* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1).☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

Detailed Action

This office action is in response to the correspondence received on August 24, 2006.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 5-8 continue to be rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claims 5-8 disclose a computer program product comprising a computer-readable medium. While the examiner recommended amending the claims to claim feature a computer-readable medium, the examiner also reminded the applicant's representatives that the all claimed features must be supported by the design specifications. The specifications define a computer-readable medium as being both tangible mediums (i.e. cd-rom) and intangible mediums (i.e. infrared (p. 19 of the specifications)). As such, the claims are not limited to statutory subject matter and are, therefore, non-statutory. Hence, in order to overcome this *35 USC § 101* rejection, the above claims need to be amended to include only the physical computer media and not a transmission media or other intangible or non-functional media.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-2, 5-6, 9-11 and 13-14 continue to be rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It was stated in the previous office action that it was unclear as to what an object is since a plurality of objects exist within the art. The specifications fail to disclose an appropriate definition defining an object. The applicant responded stating the term "object" was taken out of context. The full terms claimed are "dynamic protocol object" and "static protocol object." The applicant re-iterates that these terms are standard terms and are well-known in the computer programming art. The examiner disagrees with this assertion. The terms are not deemed standard and are not considered well-known in the art. The applicant also states that by reading the specifications, one skilled in the art would easily understand the meaning of "dynamic protocol object" and "static protocol object." Again, the examiner disagrees with the applicant's assertion. The specifications do not define "dynamic protocol object" nor do they define "static protocol object." In addition, the portions of the specifications cited by the applicant within the remarks of the amendment refer to "dynamic object" and "static object" not "dynamic protocol object" and "static protocol object."

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-14 are rejected under 35 U.S.C. 102(e) as being anticipated by Challenger et al (US Pat No: 6,256,712), hereafter referred to as Challenger.

1. With regards to claims 1, 5, 9 and 11, Challenger teaches in a communication server, a method of responding to a client application, the method comprising the steps of: a cache disposed in an operating system kernel (column 5, lines 41-67, Challenger); receiving from the client application an application protocol request corresponding to a response that can be displayed as a combination of a dynamic protocol object and a static protocol object (column 13, lines 57-62, Challenger); creating at the server the dynamic protocol object (column 2, lines 55-66 and column 13, line 65 – column 14, line 8, Challenger); sending the dynamic protocol object to the client application (column 28, lines 46-58, Challenger); retrieving the static protocol object from a cache disposed in an operating system kernel (column 13, line 57 – column 14, line 22, Challenger); and sending the static protocol object to the client application (column 28, lines

46-58, Challenger. Challenger discloses a design enabling the updating content within a server so that updated content is submitted to the client. The design allows for current copies of both dynamic and static data (objects) to be cached within the server (column 2, lines 5-8, Challenger). The cached data (objects) is consistently updated (column 2, lines 54-55, Challenger). When required, the data (objects) are dynamically rebuild the objects and provide the client with updated content (column 2, line 53 – column 3, line 34, Challenger). Finally, the use of a cache/buffer/registry within an operating system of a computer is inherent).

2. With regards to claims 2, 6, 10, 13 and 14, Challenger teaches the method wherein the cache disposed within the operating system kernel is a protocol object cache (Challenger's design allows for caches (column 2, lines 5-8, Challenger) (column 5, lines 51-52, Challenger)).

3. With regards to claims 3, 4, 7, 8 and 12, Challenger teaches the method wherein the application protocol request and the reply are formatted according to a hypertext transmission protocol (HTTP) (Challenger's design allows for HTTPD (Figure 30A, Challenger). Hence, HTTP is supported).

Remarks

The amendment received on August 24, 2006 has been carefully examined but is not deemed fully persuasive. The following are the examiner's response to the applicant's contentions.

The first point of contention involves the 101-type rejection. The applicant contends that in lieu of the claim amendments, claims 5-8 are now statutory and hence they overcome the 101-type rejection. However, upon closer inspection of the specifications, the examiner disagrees with this assertion. The specifications define a computer-readable medium as being both tangible mediums (i.e. cd-rom) and intangible mediums (i.e. infrared (p. 19 of the specifications)). As such, the claims are not limited to statutory subject matter and are, therefore, non-statutory. Hence, in order to overcome this *35 USC § 101* rejection, the above claims need to be amended to include only the physical computer media and not a transmission media or other intangible or non-functional media.

The second point of contention involves the 112-type rejection. The applicant contends that the term "object" was taken out of context. The full terms claimed are "dynamic protocol object" and "static protocol object." The applicant re-iterates that these terms are standard terms and are well-known in the computer programming art. The examiner disagrees with this assertion. The terms are not deemed standard and are not considered well-known in the art. The applicant also states that by reading the specifications, one skilled in the art would easily understand the meaning of "dynamic protocol object" and "static protocol object." Again, the examiner disagrees with the

applicant's assertion. The specifications do not define "dynamic protocol object" nor do they define "static protocol object." In addition, the portions of the specifications cited by the applicant within the remarks of the amendment refer to "dynamic object" and "static object" not "dynamic protocol object" and "static protocol object."

The third point of contention involves the 102-type rejection. The applicant contends that the previous rejection issued was improper since specific identification of how the prior art anticipates each of those separate limitations was not provided. The examiner disagrees that the previous rejection was improper. Based on the broad claim language, the examiner attempted to provide the applicant with page and line number citing along with explanations to illustrate why the prior art was pertinent. It is the responsibility of the applicant to read the prior art to attain a literal understanding of the design and to also attain an understanding of the spirit of the design. To expedite the prosecution of the case though, the examiner has cited portions of the prior art for individual claim features within the independent claims. The applicant should note that the cited portions are not the sole teachings of each of the claimed features within the prior art. The cited portions are provided to further illustrate the teachings of the claimed features within the prior art.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Azizul Choudhury whose telephone number is (571) 272-3909. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Cardone can be reached on (571) 272-3933. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

AC

JASON CARDONE
SUPERVISORY PATENT EXAMINER